



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

March 20, 1998

H.R. 1023

Ricky Ray Hemophilia Relief Fund Act of 1998

As ordered reported by the House Committee on the Judiciary on October 29, 1997.

SUMMARY

H.R. 1023 would authorize \$750 million to make compensatory payments to hemophiliacs who contracted HIV from an antihemophilic factor, and to certain of their family members. By accepting payments, individuals would agree that any claim they have against the federal government would be fully satisfied. The bill also would exclude from eligibility determinations for Medicaid and Supplemental Security Income (SSI) benefits settlement payments from a private class action lawsuit by hemophiliacs who contracted HIV.

Assuming the authorized amounts would be appropriated, CBO estimates that H.R. 1023 would result in additional discretionary spending of \$767 million over the 1998-2003 period. The bill would also increase direct spending by \$17 million and therefore be subject to pay-as-you-go procedures. H.R. 1023 does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 1023 is shown in the following table. For the purposes of this estimate, CBO assumes an enactment date of July 1, 1998.

	By Fiscal Year, in Millions of Dollars					
	1998	1999	2000	2001	2002	2003

SPENDING SUBJECT TO APPROPRIATION

Authorization Level	752	3	3	3	3	2
Estimated Outlays	2	116	228	228	116	77

DIRECT SPENDING

Estimated Budget Authority	1	4	4	3	3	2
Estimated Outlays	1	4	4	3	3	2

The costs of this legislation fall within budget functions 550 (Health) and 600 (Income Security).

BASIS OF ESTIMATE

Title I

H.R. 1023 would authorize \$750 million to be placed in a trust fund, from which compensatory payments would be made to qualified claimants. Eligible claimants include individuals with blood-clotting disorders who contracted HIV from contaminated antihemophilic factor between July 1, 1982, and December 1, 1987. Spouses of these patients also qualify as claimants, provided they demonstrate that they contracted HIV from their infected spouse. Finally, any children of these couples who contracted HIV perinatally could petition for payments. Claimants must be able to submit medical documentation of their HIV status, a hemophilia diagnosis, and the date of the antihemophilic factor treatment.

The Secretary of Health and Human Services would administer the trust fund, which would pay \$100,000 to each approved claimant. Claims would be paid in the order received until the fund is depleted. However, the Secretary could make payments for only five years after

enactment of the bill. For the purposes of this estimate, CBO assumes that payments would equal the amount authorized.

If a claimant died before filing a petition, his survivors could submit a petition in his name. If the claimant died before the claim was settled, payment would be made to his spouse, children, or parents, in that order. In accepting these payments, petitioners would agree that any claims they have against the government or its agents are fully satisfied.

The bill provides that all claims must be filed within three years of its enactment. Therefore, CBO assumes that the majority of payments from the fund would occur during the first four years of the program's operation. We also assume that payments would not start until fiscal year 1999, when outlays would total \$113 million.

H.R. 1023 specifies that, for tax purposes, payments from the fund would be considered damages received on account of personal injuries or sickness. However, this provision would not affect federal revenues since, under current law, there would be no compensatory payments that could be taxed. The bill also stipulates that, in determining eligibility for Medicaid or other entitlement benefits under section 3803(c)(2)(C) of title 31 of the United States Code, payments to claimants could not be counted as income or resources.

Under the proposal, individuals accepting payments from the fund agree not to pursue any further claim against the federal government. These claims might have taken the form of individual lawsuits against the federal government, or of a class-action lawsuit. CBO cannot estimate the amount of the government's liability, if any, under current law. However, it is possible that this provision of the bill could yield some savings to the federal government.

Finally, the bill would require that administrative costs not be paid from the fund's appropriation. Based on the administrative costs of other, similar federal trust funds, CBO estimates that the fund's administrative costs would be \$2 million in 1998, and \$16 million over the 1998-2003 period.

Title II

H.R. 1023 would exempt settlement payments arising from the 1997 class action lawsuit *In Re Factor VIII or IX Concentrate Blood Products Litigation* from consideration as income or resources in determining eligibility for Medicaid or SSI benefits. The *In Re Factor VIII or IX* settlement resolves claims by hemophiliacs who contracted HIV through contaminated blood products against the manufacturers of those blood products. Under the settlement, hemophiliacs or their survivors would receive a payment of \$100,000 per case of HIV

infection. These settlement payments have already been exempted from Medicaid eligibility determinations by the Balanced Budget Act of 1997.

Under current law, settlement payments are treated as income in SSI eligibility determinations. The size of the payments in the *In Re Factor VIII or IX* settlement would almost certainly make individuals currently receiving SSI ineligible. H.R. 1023 thus preserves SSI eligibility for a group of people who would otherwise become ineligible.

Approximately 3,250 hemophiliacs who have contracted HIV through tainted blood products are currently alive. Of this total, CBO estimates that 1,250 people are receiving SSI benefits. A small number of these individuals would not be affected by the bill because they will place their settlement payments in a special needs trust, which preserves their SSI eligibility. The estimated cost of preserving SSI eligibility for the remaining beneficiaries will be \$1 million in 1998, \$4 million in 1999, and less in subsequent years.

PAY-AS-YOU-GO CONSIDERATIONS

The provisions of Title II of this bill would affect direct spending and would therefore be subject to pay-as-you-go procedures. The pay-as-you-go effects of the bill are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

By Fiscal Year, in Millions of Dollars											
	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Change in outlays	1	4	4	3	3	2	2	2	1	1	1
Change in receipts	Not applicable										

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 1023 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (UMRA). By excluding payments from the *In Re Factor VIII or IX* settlement from being used to consider SSI eligibility, some SSI recipients would remain

eligible for state benefits. However, CBO estimates that the cost of these benefits would be less than \$500,000 annually and that states have sufficient authority to amend their financial or programmatic responsibilities to offset these costs.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

None.

ESTIMATE PREPARED BY:

Federal Costs: Anne Cappabianca (Title I)

Eric Rollins (Title II)

Impact on State, Local, and Tribal Governments: Leo Lex

Impact on the Private Sector: Julia Matson

ESTIMATE APPROVED BY:

Paul N. Van de Water

Assistant Director for Budget Analysis